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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CRIMINAL JURISDICTION

CRIMINAL APPEAL NO.1122 OF 2002

Nana Dashrath Marsale)
Convict No.3285)
Nashik Road Central Prison)
Nashik Road - 422 1001.).. APPELLANT

VERSUS

The State of Maharashtra).. RESPONDENT

None present for the Appellant.

Mr.D.R. More, Additional Public Prosecutor,
for the Respondent State.

CORAM: V.G. PALSHIKAR, Acg. C.J. &
SMT.NISHITA MHATRE, J.

DATED: 22ND AUGUST 2006

ORAL JUDGMENT : (PER MHATRE, J.)

. By this Appeal, the conviction and sentence under Section 302 of the Indian Penal Code has been challenged by the Appellant. When the Appeal was called out for hearing, the Advocate for the Appellant was not present. In view of the fact that the Appellant is in jail, we thought it appropriate to consider the Appeal on merits with the assistance of the learned Additional Public Prosecutor.

2. The case of the prosecution is that the accused and the deceased lived as husband and wife. The

deceased Sakhubai was working on the field owned by one Dada Patil along with her parents and other employees. The accused and the deceased stayed at the house of her parents on the night prior to the incident. The next morning i.e. on 13th November 1983 when all of them left for work, the accused reached the field where the deceased was working and insisted that she should return home with him immediately. When the deceased refused, the accused forced the deceased to return the saree which he had presented to her and which she was wearing on that day. The deceased returned the saree and the accused left the place. He came back around 2.00 p.m. The accused caught hold of the hand of Sakhubai, took out a knife which was concealed in his waist band and stabbed her on her neck. One Laxman Solse, a relative of the deceased, who was also working on the field along with the deceased and her parents, lodged a complaint with the police station. An inquest panchanama was prepared and the dead body was sent for post mortem examination to the Medical Officer. The accused was absconding all these years and was arrested on 5th April 2000 and committed for trial to Sessions.

3. The prosecution has examined four witnesses. PW1 is the mother of the deceased. PW2 is the father of the deceased. PW3 is the son of the owner of the field in which the deceased and her parents were working when

the incident occurred.

4. Complainant Laxman Solse has stated in his complaint that he along with his wife, the parents of the deceased and the deceased herself were working on the field owned by one Dada Patil. He has stated that the accused came to the spot at about 8.30 in the morning when they were working and insisted that the deceased should return with him. When she refused to return immediately, the accused made her undress and return the saree presented by him to her. The accused then left the spot and returned in the afternoon when he inflicted the fatal blow on the deceased. The complainant expired about five or six years before the case went to trial and, therefore, could not be examined in Court.

5. This story has been corroborated by the parents of the deceased. Both PW1 and PW2 have narrated the incident as it occurred. There are no contradictions in the testimonies of both the parents. PW3, the son of Dada Patil, the owner of the field, where the deceased and PW1 and PW2 were working, has stated that he saw one woman lying on the field with an injury on her neck. He saw the accused, who he identified in Court, running away from the spot.

6. On a reappraisal of the evidence on record, in our opinion, the impugned judgment cannot be faulted. There is sufficient evidence on record pointing to the accused. The testimony of the eye witnesses has not been demolished in cross-examination. It rings true and appears to us to be worthy of acceptance. The medical evidence corroborates the ocular evidence. Injuries reflected in the post mortem report are those which have been described by PW1 and PW2.

7. In such circumstances, the judgment and order dated 17th October 2000 passed in Sessions Case No.128 of 2000 by the Additional Sessions Judge, Nashik is upheld. Appeal dismissed.

(V.G.PALSHIKAR, Acg.C.J.)

(SMT.NISHITA MHATRE, J.)